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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,736	06/23/2000	Ove Strandberg	730.38192X00	1504
20457	7590	06/14/2005	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			HO, CHUONG T	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/599,736

Applicant(s)

STRANDBERG ET AL

Examiner

CHUONG T. HO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The amendment filed 02/01/05 have been entered and made of record.
2. Applicant's arguments with respect to claims 1-19, 21-27 have been considered but are moot in view of the new ground(s) of rejection.
3. Claims 1-19, 21-27 are pending.

### ***Claim Objections***

Claim 20 is objected to because of the following informalities: Claim 21 depends on the canceled claim 20. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-9, 10-15, 17-18, 19-20, 21-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Pashtan et al. (U.S. Patent No. 6,542,466 B1).

Regarding to claims 1, see figures 4, 5, Pashtan et al. Discloses communication network 300 includes a plurality of network elements 422, 421, 412 (routers)... Each network element may have an internal traffic conditioning control. Such internal control may be performed by interconnection of one or more blocks such as a classifier for classifying an ingress data packets, a meter for measuring performance, a marker for

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marking the data packets, and shaper and dropper to shape the data traffic flow according to a profile (see col. 2, lines 52-55); comprising:

- Determining an operating condition at a first router (network element 500, figure 5, network element 422, figure 4, col. 5, lines 40-60);
- Propagating an indication of operating condition at first router (422) to a second router (412) (see col. 5, lines 9-10, network element 422 may communicate to network element 412 via connections 450 in order to inform network element 412 of a request for change of communication traffic flow priority) (see col. 6, lines 10-12, each network element acting as a router has access to a resident table of the DiffServ classes of service. This table is usually the same across all the routers of the DiffServ domain); A system of operating a differentiated service network (see col. 6, lines 33-35, as the network is rapidly changing states, backward propagation of request to decrease a DiffServ priority may be met by an upstream network element and the reassigned micro communication flow may then met the QoS objective at the network element where the congestion was originally detected);
- Adjusting at least one parameter of constraint (traffic flows) of incoming traffic based on indication (see col. 7, lines 30-32, col. 6, lines 33-35, lines 57-65).

5. Regarding to claims 10, 11, see figures 4, 5, Pashtan et al. Discloses communication network 300 includes a plurality of network elements 422, 421, 412 (routers)... Each network element may have an internal traffic conditioning control. Such internal control may be performed by interconnection of one or more blocks such as a

classifier for classifying an ingress data packets, a meter for measuring performance, a marker for marking the data packets, and shaper and dropper to shape the data traffic flow according to a profile (see col. 2, lines 52-55); comprising:

- Determining an operating condition at a first router (network element 500, figure 5, network element 422, figure 4, col. 5, lines 40-60);
- Propagating an indication of operating condition at first router (422) to a second router (412) (see col. 5, lines 9-10, network element 422 may communicate to network element 412 via connections 450 in order to inform network element 412 of a request for change of communication traffic flow priority) (see col. 6, lines 10-12, each network element acting as a router has access to a resident table of the DiffServ classes of service. This table is usually the same across all the routers of the DiffServ domain); A system of operating a differentiated service network (see col. 6, lines 33-35, as the network is rapidly changing states, backward propagation of request to decrease a DiffServ priority may be met by an upstream network element and the reassigned micro communication flow may then met the QoS objective at the network element where the congestion was originally detected);
- Adjusting at least one parameter of constraint (traffic flows) of incoming traffic based on indication (see col. 7, lines 30-32, col. 6, lines 33-35, lines 57-65).

6. Regarding to claim 19, see figures 4, 5, Pashtan et al. Discloses communication network 300 includes a plurality of network elements 422, 421, 412 (routers)... Each network element may have an internal traffic conditioning control. Such internal control

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may be performed by interconnection of one or more blocks such as a classifier for classifying an ingress data packets, a meter for measuring performance, a marker for marking the data packets, and shaper and dropper to shape the data traffic flow according to a profile (see col. 2, lines 52-55); comprising:

- Determining an operating condition at a first router (network element 500, figure 5, network element 422, figure 4, col. 5, lines 40-60);
- Propagating an indication of operating condition at first router (422) to a second router (412) (see col. 5, lines 9-10, network element 422 may communicate to network element 412 via connections 450 in order to inform network element 412 of a request for change of communication traffic flow priority) (see col. 6, lines 10-12, each network element acting as a router has access to a resident table of the DiffServ classes of service. This table is usually the same across all the routers of the DiffServ domain); A system of operating a differentiated service network (see col. 6, lines 33-35, as the network is rapidly changing states, backward propagation of request to decrease a DiffServ priority may be met by an upstream network element and the reassigned micro communication flow may then met the QoS objective at the network element where the congestion was originally detected);
- Adjusting at least one parameter of constraint (traffic flows) of incoming traffic based on indication (see col. 7, lines 30-32, col. 6, lines 33-35, lines 57-65).

7. In the claims 2, 12, 27, Pashtan discloses first router (412) comprises a core router and second router (422) comprises an edge router (see figure 4, communication

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network 300 includes a plurality of network elements 422, 421, 412 (routers)... Each network element may have an internal traffic conditioning control. Such internal control may be performed by interconnection of one or more blocks such as a classifier for classifying an ingress data packets, a meter for measuring performance, a marker for marking the data packets, and shaper and dropper to shape the data traffic flow according to a profile (see col. 2, lines 52-55)).

8. In the claims 3, 13, 21, Pashtan discloses determining an operating condition at a third router (421); and propagating an indication of operating condition at third router to second router (412) (communication network 300 includes a plurality of network elements 422, 421, 412 (routers)... Each network element may have an internal traffic conditioning control. Such internal control may be performed by interconnection of one or more blocks such as a classifier for classifying an ingress data packets, a meter for measuring performance, a marker for marking the data packets, and shaper and dropper to shape the data traffic flow according to a profile (see col. 2, lines 52-55)).

9. In the claims 4, 14, 24, Pashtan discloses operating condition comprises a status of stability (see col. 6, lines 33-35, as the network is rapidly changing states, backward propagation of request to decrease a DiffServ priority may be met by an upstream network element and the reassigned micro communication flow may then met the QoS objective at the network element where the congestion was originally detected).

10. In the claims 5, 15, 25, 26, Pashtan discloses indication comprises a signal corresponding to a network traffic status (traffic flows, DiffServ values, class of service(see col. 6, lines 57- 65).

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11. In the claims 7, 17, Pashtan discloses second router (network element 422, 412, 421) making a profile change recommendation to a network operator (the network management element 330) (see figure 3, col. 5, lines 9-11).

12. In the claims 8, 9, 17, 18, 22, 23, Pashtan discloses second router renegotiating a constraint of network (see col. 1, lines 48-50).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pashtan et al. (U.S. Patent No. 6,542,466 B1) in view of Galand et al. (U.S. Patent No. 6,188,698 B1).

Regarding to claims 6, 16, Pashtan et al. discloses the limitations of claim 5 above.

However, Pashtan et al. is silent to disclosing network traffic is represented by a color.

Galand discloses network traffic status is represented by a color (see col. 3, lines 10-55).

Both Pashtan and Galand discloses classifying the traffic flows. Galand recognizes network traffic status is represented by a color. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the



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system of Galand with the teaching of Pashtan to propagate an indication of operating condition at first router to a second router in order to control congested condition.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong ho whose telephone number is (571)272-3133. The examiner can normally be reached on Monday-Friday from 8:00AM-4:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

06/09/05



WELLINGTON CHIN  
PERMISSORY PATENT EXAMINER